

PHARMACY BOARD[657]

Notice of Intended Action

Proposing rule making related to pharmacy technicians and electronic transfer of prescriptions and providing an opportunity for public comment

The Pharmacy Board hereby proposes to amend Chapter 3, “Pharmacy Technicians,” and Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 155A.6A, 155A.33 and 155A.34.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 155A.6A and 155A.33 and 2018 Iowa Acts, Senate File 2322.

Purpose and Summary

The proposed amendments allow a certified pharmacy technician to transfer a prescription for a noncontrolled substance to another pharmacy or receive a prescription transfer for a noncontrolled substance from another pharmacy, allow a certified pharmacy technician to dispense a verified prescription which has been deemed to not require counseling to a patient while the pharmacist is on a break, and simplify rule language relating to the electronic transfer of prescriptions in anticipation of enhanced technologies in pharmacy software system capabilities.

2018 Iowa Acts, Senate File 2322, section 6, amended the Iowa Code during the 2018 Legislative Session to provide for the transfer of prescriptions between licensed pharmacies in accordance with Board rules. Electronic systems, technician training, and pharmacist oversight provide sufficient safeguards to ensure certified technicians are capable of transmitting such prescription information.

Pharmacists often find it difficult to take a rest or lunch break due, in part, to technicians being prohibited from dispensing a prescription when the pharmacist is away from the immediate dispensing area. These proposed amendments would allow a certified pharmacy technician, at the discretion of the on-duty supervising pharmacist and pursuant to policies and procedures, to dispense a verified prescription which has been deemed to not require counseling to a patient when the pharmacist is absent from the pharmacy department on a break of limited duration.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 16, 2018. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 657—3.21(155A) as follows:

657—3.21(155A) Delegation of functions.

3.21(1) Technical dispensing functions. A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in ~~657—subrule 6.7(2) rule 657—6.7(124,155A)~~ or ~~657—subrule 7.6(2) 657—7.6(155A)~~, as appropriate, or as provided for telepharmacy in ~~657—Chapter 9 657—Chapter 13~~. Except as provided for an approved tech-check-tech program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient’s prescription or medication order prior to the delivery of the medication to the patient or the patient’s representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

3.21(2) Nontechnical functions. A pharmacist may delegate nontechnical functions to a pharmacy technician or a pharmacy support person only if the pharmacist is present to supervise the pharmacy technician or pharmacy support person when delegated nontechnical functions are performed, except as provided in ~~657—subrule 6.7(2) rule 657—6.7(124,155A)~~ or ~~657—subrule 7.6(2) 657—7.6(155A)~~, as appropriate, or as provided for telepharmacy in ~~657—Chapter 9 657—Chapter 13~~.

ITEM 2. Adopt the following **new** paragraphs **3.22(1)“k”** and **“l”**:

k. Transfer via oral, facsimile, or electronic means the original prescription drug order information and prescription refill information of a prescription for a noncontrolled substance to a pharmacy as requested by a patient or patient’s caregiver pursuant to rule 657—6.9(124,155A). A technician shall not transfer by any means the original prescription drug order information or prescription refill information for a controlled substance.

l. Receive via oral, facsimile, or electronic means the transfer of original prescription drug order information and prescription refill information of a prescription for a noncontrolled substance from a pharmacy as requested by a patient or patient's caregiver pursuant to rule 657—6.9(124,155A). A technician shall not receive via transfer by any means the original prescription drug order information or prescription refill information of a prescription for a controlled substance.

ITEM 3. Amend rule 657—3.23(155A) as follows:

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician shall not be authorized to perform any of the following judgmental tasks:

1. to 4. No change.

5. Transfer a prescription drug order for a controlled substance to another pharmacy or receive the transfer of a prescription drug order for a controlled substance from another pharmacy;

6. No change.

ITEM 4. Amend subrule 6.7(1) as follows:

6.7(1) Department locked. The prescription department shall be locked by key or combination so as to prevent access when a pharmacist is not on site except as provided in ~~subrule~~ subrules 6.7(2) and 6.7(4).

ITEM 5. Adopt the following **new** subrule 6.7(4):

6.7(4) Refill sales during pharmacist break. At the discretion of the on-duty supervising pharmacist and pursuant to established policies and procedures, the pharmacist may delegate to a technician the dispensing of previously verified prescriptions which have been identified to not require pharmacist counseling pursuant to rule 657—6.14(155A) when the pharmacist is on a break of limited duration and is absent from the pharmacy department.

ITEM 6. Amend rule 657—6.9(124,155A) as follows:

657—6.9(124,155A) Transfer of prescription. The transmission of a prescription drug order from a pharmacy to a pharmacy engaged in centralized prescription filling or processing on behalf of the originating pharmacy pursuant to the requirements of 657—Chapter 18 shall not constitute the transfer of a prescription. Upon the request of a patient or the patient's caregiver, a pharmacy shall transfer original prescription drug order information and prescription refill information to a pharmacy designated by the patient or the patient's caregiver, central fill or processing pharmacies excepted, subject to the following requirements:

6.9(1) and 6.9(2) No change.

6.9(3) ~~Communication Authorized individuals and means of transmission.~~ ~~The transfer is communicated directly between pharmacists, directly between pharmacist-interns under the direct supervision of pharmacists at the respective pharmacies, directly between a pharmacist and a pharmacist-intern under the direct supervision of a pharmacist, or as authorized in subrule 6.9(8). Following direct communication between authorized individuals as provided herein, the~~ Individuals authorized to engage in the transfer of prescriptions include a pharmacist, a pharmacist-intern under the direct supervision of a pharmacist, and a certified pharmacy technician only as authorized in rule 657—3.22(155A). The transferring pharmacist or pharmacist-intern individual may transmit the prescription and transfer information required under subrule 6.9(5) from the transferring pharmacy via electronic means pursuant to subrule 6.9(8) or, following direct communication between authorized individuals, via oral or facsimile transmission. ~~The receiving pharmacist or pharmacist-intern individual shall ensure the prescription transfer record maintained in the receiving pharmacy contains all of the information required under subrule 6.9(7).~~

6.9(4) No change.

6.9(5) Record of transfer out. ~~The pharmacist or pharmacist-intern individual~~ individual transferring the prescription drug order information shall:

a. Invalidate the prescription drug order;

b. Record on or with the invalidated prescription drug order the following information:

(1) The name, address, and, for a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred;

(2) The name of the ~~pharmacist or pharmacist-intern~~ individual receiving the prescription drug order information;

(3) The name of the ~~pharmacist or pharmacist-intern~~ individual transferring the prescription drug order information; and

(4) The date of the transfer.

6.9(6) No change.

6.9(7) *Record of transfer received.* The ~~pharmacist or pharmacist-intern~~ individual receiving the transferred prescription drug order information shall:

a. Indicate that the prescription drug order has been transferred;

b. Record on or with the transferred prescription drug order the following information:

(1) to (5) No change.

(6) Name of the ~~pharmacist or pharmacist-intern~~ individual receiving the prescription drug order information;

(7) Name of the ~~pharmacist or pharmacist-intern~~ individual transferring the prescription drug order information; and

(8) No change.

6.9(8) *Electronic transfer between pharmacies.* Pharmacies ~~electronically accessing the same prescription drug order records via a real-time, online database~~ may electronically transfer prescription information, including controlled substance prescription information, ~~up to the maximum refills permitted by law and the prescriber's authorization, if the following requirements are met in compliance with federal regulations for controlled substances.~~ For transfers of prescriptions for noncontrolled substances and controlled substances, pharmacies that share a real-time, online database may transfer up to the maximum refills permitted by law and the prescriber's authorization. A prescription for a controlled substance transferred between two pharmacies which do not share a real-time, online database may only be transferred one time.

a. ~~The data processing system shall have a mechanism to send the transferring pharmacy a message containing the following information:~~

~~(1) The fact that the prescription drug order was transferred;~~

~~(2) The unique identification number of the prescription drug order transferred;~~

~~(3) The name, address, and DEA registration number of the pharmacy to which the prescription drug order was transferred and the name of the pharmacist or pharmacist-intern receiving the prescription information; and~~

~~(4) The date and time of transfer.~~

b. ~~A pharmacist or pharmacist-intern under the direct supervision of a pharmacist in the transferring pharmacy shall review the message and document the review by signing and dating a hard copy of the message or logbook containing the information required on the message, or by a notation in the electronic message that includes the unique identification of the pharmacist or pharmacist-intern and the date of review, as soon as practical, but in no event more than 72 hours from the time of such transfer.~~

c. ~~For transfers of controlled substance prescriptions, all information requirements included in subrules 6.9(1) and 6.9(3) through 6.9(7) shall be satisfied in the electronic system. Transfers of controlled substance prescriptions shall also identify the pharmacy name, address, DEA registration number, and prescription number from which the prescription was originally filled.~~